IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

:: O R D E R ::

**S.B. CIVIL WRIT PETITION NO. 23/1995**

R.S.R.T.C. & Anr.
Vs.
Nasibsingh & Anr.

DATE OF ORDER :: 6.9.2007

**PRESENT**

**HON'BLE MR. BHANWAROO KHAN, J.**

Mr. Bagh Singh Bhati,for the petitioners.
None present for the respondent

The instant writ petition has been filed against the award dated 9.5.1994 passed by the Industrial Tribunal, Bikaner whereby the penalty of with-holding of one grade with cumulative effect imposed by the petitioners was replaced by the Tribunal by stopping of one grade increment without cumulative effect. Aggrieved by the said order of the Tribunal, this writ petition has been preferred.

In brief, facts of the case are that the respondent No.1 was working as Driver in the petitioners' Department and while performing the said duty due to negligent driving of the

Bus, two tyres of the Bus, which were punctured but without caring for them, the respondent drove the vehicle, which completely damaged the said tyres. While driving so, he also broke the front show of the said Bus. This misconduct of the respondent driver was inquired into and after due inquiry, the inquiry officer submitted his inquiry report. The Disciplinary Authority imposed withholding of one grade increment with cumulative effect after finding him guilty of misconduct and negligent. The respondent through the Union preferred a dispute before the Conciliation Officer, who submitted negative report, and thereafter, the State Government referred the dispute for adjudication.

The Industrial Tribunal, Bikaner after giving opportunity to both the parties to lead their respective evidence came to the conclusion as aforesaid.

Heard learned counsel for the petitioners.

Learned counsel pleaded that vide Rajasthan State Road Transport Workers & Work Shop employees Standing Orders, 1965 (for short 'the Standing Orders, 1965' hereinafter) of the petitioner, Rule 36 provides that the mode of penalties be imposed for good and sufficient reasons and there is no

difference or distinction between minor and major penalties for which a separate charge-sheet is needed or separate procedure or method is provided. Of course, under Rule 36 simply withholding of increment is mentioned. The main question to be decided is whether if a charge-sheet issued and on being found guilty, the penalty imposed under Rule 36, which does not provide stoppage of grade increment with cumulative effect can be imposed or not.

Learned counsel for the petitioners contended that the Division Bench of this Court in the case of Krishna Dutta Sharma Vs. State of Rajasthan, RLR 1987(1) 346 has already decided the point that stoppage of grade increment with cumulative effect is same to that of reduction to a lower post or grade which punishment is provided under Rule 36(vi) of the Standing Orders, 1965. The Division Bench of this Court held as under :-

> "While in case of withholding of grade increment with cumulative effect the Government servant is put to a financial loss for the entire period of his future service and the result is that he is put to one grade increment less for the entire period of his remaining service. In our view such penalty of withholding of grade increment with cumulative effect and reduction to a lower stage in the time scale as provided as one of the penalties under clause (iv) of Rule 14 are

> equivalent and have the same effect. Learned Additional Government Advocate was unable to explain any difference in the aforesaid two kinds of penalties. If a Government servant is given a penalty of reduction to a lower stage in the same time scale, then also such Government servant is put to a loss of one grade increment for the entire period of his service after such punishment. It remains undisputed that the penalty of reduction to a lower stage in the time scale as specified in clause (iv) of Rule 14 is a major lower stage in the time scale as specified in clause (iv) of Rule 14 is a major penalty and procedure for enquiry has to be followed as provided under Rule 16 of the Rules."

In view of law laid down by the Division Bench of this Court in the case of Krishna Dutta Sharma (supra) the penalty of stoppage of annual grade increment with cumulative effect is a penalty equal to the penalty of reduction to a lower stage in the time scale. It is not in dispute that a penalty of reduction to a lower stage in the time scale is specified as a major penalty under the Standing Orders. The Labour Court erred while holding that no penalty of stoppage of annual grade increments with cumulative effect is prescribed under the Standing Orders. More so, when there is no separate rule or order for issuance of the charge-sheet for minor or major punishment and when for the grave charge the penalty of stoppage of annual grade increment can be imposed and certainly looking to the gravity of charge levelled against the respondent-workman the penalty of

stoppage of grade increment with cumulative effect can also be imposed as punishment provided under Standing Order 36(vi) which amounts to reduction to a lower post or grade.

As a consequent to the discussion above, the writ petition deserves to be accepted and same is, therefore, allowed. The award impugned dated 9.5.1994 passed by the Industrial Tribunal, Bikaner is quashed. There shall be no order as to costs.

**(BHANWAROO KHAN)J.**

BKS/